



PUBLIC NOTICE

Federal Communications Commission
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DA 02-1259
May 28, 2002

APPLICATION OF AMERICATEL CORPORATION AND TELECOM ITALIA OF NORTH AMERICA, INC. TO MODIFY REGULATORY CLASSIFICATION FROM DOMINANT TO NON-DOMINANT ON THE U.S.-BRAZIL ROUTE

Pleading Cycle Established
ITC-MOD-20020508-00243 (Telecom Italia of North America, Inc.);
ITC-MOD-20020508-00244 (Americatel Corporation)

Comments/Petitions Due: June 28, 2002
Responses/Oppositions Due: July 15, 2002

Americatel Corporation and Telecom Italia of North America, Inc. (collectively, “Petitioners”) have filed a petition to modify their status from dominant to non-dominant for the provision of international services on the U.S.-Brazil route. In addition, Petitioners request that the Commission remove Petitioners’ foreign affiliate, Brasil Telecom S.A. (“Brasil Telecom”), from the Commission’s *List of Foreign Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets*.¹

Petitioners argue that they should be re-classified as non-dominant because Brasil Telecom does not possess market power on the U.S.-Brazil route.² Petitioners argue that under the Commission’s rules,³ they should be presumptively classified as non-dominant because Brasil Telecom holds less than a 50 percent share in the international transport and local access markets in Brazil, and because of legal prohibitions against Brasil Telecom’s expansion into new

¹ List of Foreign Telecommunications Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets, *Public Notice*, DA 99-809 (correction rel. June 18, 1999), at http://www.fcc.gov/Bureaus/International/Public_Notices/1999/da990809.txt.

² Pursuant to section 63.13 of the Commission rules, 47 C.F.R. § 63.13, a carrier that seeks to modify its regulatory status from dominant to non-dominant on a particular route must provide information to demonstrate that it qualifies for non-dominant classification under to section 63.10 of the Commission rules, 47 C.F.R. § 63.10.

³ See 47 C.F.R. 63.10(a)(3).

markets.⁴ Petitioners argue further that other factors indicate a lack of market power, including Brasil Telecom's lack of bottleneck control of international transmission facilities and services in Brazil, Brazil's satisfaction of the Commission's benchmark settlement rate conditions, and the absence of significant barriers to entry or expansion.

Petitioners argue that the information presented to support their re-classification to non-dominant on the U.S.-Brazil route also satisfies the Commission's standard for rebutting the presumption that Brasil Telecom possesses sufficient market power in Brazil pursuant to section 43.51 of the Commission's rules, 47 C.F.R. § 43.51. Consequently, Petitioners also request that the Commission remove Brasil Telecom from the list of foreign carriers that are presumed to possess market power in foreign telecommunications markets.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before **June 28, 2002**, and reply comments on or before **July 15, 2002**. Any filings should reference the file numbers of this proceeding. **An original and four copies** of all pleadings must be filed in accordance with Section 1.51(c) of the Commission's rules, 47 C.F.R. § 1.51(c).

If filed by hand delivery, the Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

If filed by mail, the following procedures should be followed: Commercial Overnight Mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. **U.S. Postal Service first-class mail, Express Mail, and Priority Mail** should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

The Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: 202 863-2893.

- (1) George Li, Policy Division, International Bureau, 445 12th Street, S.W., Room 6-A761, Washington, D.C. 20554; e-mail: gli@fcc.gov;
- (2) Claudia Fox, Policy Division, International Bureau, 445 12th Street, S.W., Room 6-A848, Washington, D.C. 20554; e-mail: cfox@fcc.gov;

⁴ Petitioners allege that Brasil Telecom cannot offer inter-regional and international long distance service within its home region and cannot offer any type of fixed service outside its home region until December 31, 2003, unless it satisfies its network expansion and universal service targets prior to that date.

- (3) David Krech, Policy Division, International Bureau, 445 12th Street, S.W., Room 6-C848, Washington, D.C. 20554; e-mail: dkrech@fcc.gov;
- (4) Mark Uretsky, Policy Division, International Bureau, 445 12th Street, S.W., Room 6-A814, Washington, D.C. 20554; email: muretsky@fcc.gov;
- (5) David Strickland, Policy Division, International Bureau, 445 12th Street, S.W., Room 5-C848, Washington, D.C. 20554; e-mail: dstrickl@fcc.gov.

Copies of the Applications to Modify Regulatory Classification and any subsequently filed documents in this matter are available for inspection and duplication during regular business hours in the FCC Office of Public Affairs Reference and Information Center, 445 12th Street, S.W., room CY-A257, Washington, D.C. 20554. Copies also may be obtained from Qualex International, 445 12th Street, S.W., room CY-B402, Washington, D.C. 20554, (202) 863-2893.

This is a “permit but disclose” proceeding for purposes of the Commission’s *ex parte* rules. *See generally* 47 C.F.R. §§ 1.1200-1.1216. As a “permit but disclose” proceeding, *ex parte* presentations will be governed by the procedures set forth in section 1.1206 of the Commission’s rules applicable to non-restricted proceedings, 47 C.F.R. § 1.1206. Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 C.F.R. § 1.1205(b)(2). Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.

For further information, contact David Strickland, International Bureau, at (202) 418-0977.